

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 1:18-CR-55-5

BONNIE JO KORZUN,

Defendant.

BONNIE JO KORZUN,

Petitioner,

v.

CIVIL NO. 1:20-CV-79

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION
REGARDING 28 U.S.C. § 2255 PETITION

On April 30, 2020, Bonnie Jo Korzun ("Korzun") filed a pro se motion under 28 U.S.C. § 2255 to vacate, set aside, or correct her sentence. See ECF No. 1, Civil Action No. 1:20-CV-79; ECF No. 272, Criminal Action No. 1:18-CR-55-5. On April 1, 2022, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court deny and dismiss the motion.

The R&R informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections, identifying the portions of the Report and

BONNIE JO KORZUN

1:18-CR-55-5, 1:20-CV-79

**ORDER ADOPTING REPORT AND RECOMMENDATION
REGARDING 28 U.S.C. § 2255 PETITION**

Recommendation to which objection is made, and the basis of such objection.” It further warned them that the “[f]ailure to timely file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals.” Korzun accepted service of the R&R on April 6, 2022. To date, no objections have been filed.

When reviewing a magistrate judge’s R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, “the Court may adopt, without explanation, any of the magistrate judge’s recommendations” to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 404, 1:18-CR-55-5; ECF No. 12, 1:20-CV-79]. Korzun’s motion is **DENIED** and **DISMISSED WITH PREJUDICE** [ECF No. 272, 1:18-CR-55-5; ECF No. 1, 1:20-CV-79].

BONNIE JO KORZUN

1:18-CR-55-5, 1:20-CV-79

**ORDER ADOPTING REPORT AND RECOMMENDATION
REGARDING 28 U.S.C. § 2255 PETITION**

Pursuant to Rule 11(a) of the Rules Governing § 2255 Proceedings, the district court "must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." If the Court denies the certificate, "a party may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22." Id. The Court finds it inappropriate to issue a certificate of appealability in this matter because Korzun has not made a "substantial showing of the denial of a constitutional right." See 28 U.S.C. § 2253(c)(2). The Court, therefore, **DENIES** issuing a certificate of appealability.

It is so **ORDERED**.

The Clerk is directed to enter a separate judgment order in favor of the United States in Civil Action Number 1:20-CV-79; to transmit a copy of this Order to Korzun via certified mail, return receipt requested; to transmit a copy of this Order to counsel of record by electronic means; and to strike Civil Action Number 1:20-CV-79 from the Court's active docket.

DATED: April 27, 2022



THOMAS S. KLEE, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA